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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-670**

12 **KENNETH ALBERT SAWYER,**  
13 **a.k.a. KENNETH A. SAWYER**  
14 **14 Cambridge Street**  
**Portland, ME 04103**  
**Registered Nurse License No. 711425**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about August 28, 2007, the Board issued Registered Nurse License Number  
23 711425 to Kenneth Albert Sawyer, also known as Kenneth A. Sawyer ("Respondent").  
24 Respondent's registered nurse license was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on February 28, 2011, unless renewed.

26 **STATUTORY AND REGULATORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed  
9 nurse or deny an application for a certificate or license for any of the following:

10 . . . .

11 (f) Conviction of a felony or of any offense substantially related to the  
12 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof . . .

13 6. Code section 2765 states:

14 A plea or verdict of guilty or a conviction following a plea of nolo  
15 contendere made to a charge substantially related to the qualifications, functions and  
16 duties of a registered nurse is deemed to be a conviction within the meaning of this  
17 article. The board may order the license or certificate suspended or revoked, or may  
18 decline to issue a license or certificate, when the time for appeal has elapsed, or the  
19 judgment of conviction has been affirmed on appeal or when an order granting  
probation is made suspending the imposition of sentence, irrespective of a subsequent  
order under the provisions of Section 1203.4 of the Penal Code allowing such person  
to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
the verdict of guilty, or dismissing the accusation, information or indictment.

20 7. Code section 490, subdivision (a), states:

21 In addition to any other action that a board is permitted to take against a  
22 licensee, a board may suspend or revoke a license on the ground that the licensee has  
23 been convicted of a crime, if the crime is substantially related to the qualifications,  
functions, or duties of the business or profession for which the license was issued.

24 8. California Code of Regulations, title 16, section 1444, states, in pertinent part:

25 A conviction or act shall be considered to be substantially related to the  
26 qualifications, functions or duties of a registered nurse if to a substantial degree it  
evidences the present or potential unfitness of a registered nurse to practice in a  
27 manner consistent with the public health, safety, or welfare. Such convictions or acts  
shall include but not be limited to the following:

28 (a) Assaultive or abusive conduct including, but not limited to, those  
violations listed in subdivision (d) of Penal Code Section 11160.

....  
1  
2 (d) Any conviction or act subject to an order of registration pursuant to  
Section 290 of the Penal Code.

3 **COST RECOVERY**

4 9. Code section 125.3 provides, in pertinent part, that the Board may request the  
5 administrative law judge to direct a licensee found to have committed a violation or violations of  
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
7 enforcement of the case.

8 **CAUSE FOR DISCIPLINE**

9 **(Criminal Conviction: Sexual Assault)**

10 10. Respondent is subject to disciplinary action pursuant to Code sections 2761,  
11 subdivision (f), and 490, subdivision (a), in that on or about December 28, 1992, in the criminal  
12 proceeding titled *State of Colorado v. Kenneth A. Sawyer* (Dist. Ct. Denver County, 1992, Case  
13 No. 88CR803), Respondent pled guilty to one count of violating C.R.S. 18-3-402 (first degree  
14 sexual assault, a Class 3 felony) and two counts of violating C.R.S. 18-3-404(1)(A) (third degree  
15 sexual assault, a misdemeanor), crimes substantially related to the qualifications, functions, and  
16 duties of a registered nurse. Respondent was sentenced to serve 20 months in Denver County  
17 Jail, and was ordered to be evaluated, to follow any treatment recommendations made, and not to  
18 be employed in home care where he is in a position of trust. Respondent was also required to  
19 register as a sex offender in the State of Maine.

20 11. The circumstances of the crime are as follows: On or about March 21, 1988,  
21 Respondent performed fellatio on the male victim when he knew that the victim was physically  
22 helpless and had not consented to said sexual intrusion and sexual penetration.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number 711425, issued to  
27 Kenneth Albert Sawyer, also known as Kenneth A. Sawyer;

28 ///


1           2.     Ordering Kenneth Albert Sawyer, also known as Kenneth A. Sawyer, to pay the  
2 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this  
3 case, pursuant to Business and Professions Code section 125.3;

4           3.     Taking such other and further action as deemed necessary and proper.

5  
6 DATED: \_\_\_\_\_

6/30/10

for

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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